IN THE PARSI MATRIMONIAL COURT AT BOMBAY

SUIT NO.23 OF 2006

Viraf M. Boywalla ..Plaintiff No.1.

And

Nilufer V. Boywalla ..Plaintiff No.2.

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Ms. A.S. Khushrushahi for Plaintiff No.1.
Mr. P.G. Gandhi i/b M/s. Vikram Dilip for Plaintiff No.2.

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CORAM: DR. D.Y. CHANDRACHUD, J.

11th August, 2006.

P.C. :

1. This is an application for divorce by mutual consent under Section 32 -B of the Parsi Marriage & Divorce Act, 1936. A precipe was filed in the registry for placing the suit on Board today but, inadvertently the registry has not done so. The Court is accordingly moved by learned counsel appearing on behalf of the contesting parties. The Court is requested to take the suit on Board by consent since the parties have taken leave from their respective occupations.

2. The suit has accordingly been taken on Board by consent and has been called out.

3. The parties were married at Mumbai on 2nd December, 2002 according to Parsi Zoroastrian rites and customs. A female child has been born out of the wedlock on 7th September, 2003 and is now three years of age. There have been matrimonial differences between the parties and the Second Plaintiff is residing separately with her parents since March 2005. Consent Terms have been arrived at between the parties and it is envisaged that the custody of the minor child will be with the Second Plaintiff who is the mother. The Second Plaintiff is stated to be employed with the Stock Holding Corporation of India Limited. Having regard to the age of the child, it is evidently in the interests and welfare of the child that she resides with the mother. The parties have filed affidavits in lieu of the examination-in-chief. Since a divorce by mutual consent has been agreed upon, neither of the parties were cross examined. Both the parties who are personally present before the Court have informed the Court that they have voluntarily signed the Consent Terms and that there is no force, fraud or coercion of any nature whatsoever.

4. In view of the judgment of a learned Single Judge of this Court, F.I.Rebello, J., dated 18th October, 2004 in Suit No.15 of

2004, which was confirmed in appeal by the Division Bench on 10th March, 2005, it is not necessary for the Court to consult the delegates in a suit under Section 32-B for divorce by mutual consent.

5. There is no reason why the relief sought in the suit should not be granted. A divorce by mutual consent is in the interest of both the parties and having regard to the fact that that they have lived apart for a period in excess of one year, there is no possibility now of a reconciliation. The suit is accordingly, decreed in terms of prayer clauses (a), and (b).